

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

MEETING DATE: 7/14/04

DIVISION: COUNTY ADMINISTRATOR

BULK ITEM: YES

DEPARTMENT: AIRPORTS

AGENDA ITEM WORDING: Approval of land lease with the Federal Aviation Administration for the Runway-End Identification Lights (REIL) System Facility/Runway 27, at the Key West International Airport.

ITEM BACKGROUND: The current lease expires 9/30/04. This lease is effective 10/1/04, and expires 9/30/25. There is no monetary consideration.

PREVIOUS RELEVANT BOCC ACTION: Approval of lease agreement dated 7/28/89.

CONTRACT/AGREEMENT CHANGES: New agreement

STAFF RECOMMENDATION: Approval

TOTAL COST: None

BUDGETED: N/A

COST TO AIRPORT: None

SOURCE OF FUNDS: N/A

COST TO PFC: None

COST TO COUNTY: None

REVENUE PRODUCING: No

AMOUNT PER MONTH /YEAR:

APPROVED BY: County Attorney ☒ OMB/Purchasing ☒ Risk Management ☒

DIRECTOR OF AIRPORTS APPROVAL _____


Peter J. Horton

DOCUMENTATION: Included ☒

To Follow

Not Required

AGENDA ITEM # C17

DISPOSITION: _____

/bev
APB

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract #

Contract with: Federal Aviation Administration

Effective Date: 10/1/04

Expiration Date: 9/30/25

Contract Purpose/Description: Land Lease for Runway-End Identification Lights (REIL)

Contract Manager: Bevette Moore
(name)

5195
(Ext.)

Airports - Stop # 5
(Department/Courier Stop)

for BOCC meeting on: 7/14/04

Agenda Deadline: 6/29/04

CONTRACT COSTS

Total Dollar Value of Contract: None
Budgeted? N/A
Grant: N/A
County Match: N/A

Current Year Portion: N/A
Account Codes: N/A

ADDITIONAL COSTS

Estimated Ongoing Costs: N/A
(not included in dollar value above)

For: .
(eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed Yes No	Reviewer	Date Out
Airports Director	<u>6/29/04</u>	() <input checked="" type="checkbox"/>	<u>Peter Horton</u> for Risk Management	<u>6/29/04</u>
Risk Management	<u>6/24/04</u>	() <input checked="" type="checkbox"/>	<u>Belinda</u> for Risk Management	<u>6/24/04</u>
O.M.B./Purchasing	<u>6/24/04</u>	() <input checked="" type="checkbox"/>	<u>Belinda</u> for OMB	<u>6/24/04</u>
County Attorney	<u>1/1/</u>	() ()	<u>Pedro Menaca</u> County Attorney	<u>6/28/04</u>

Comments: _____

FEDERAL AVIATION ADMINISTRATION
LAND LEASE

U.S. Department
of Transportation

Lease No.: DTFASO-04-L-00093
Facility : REIL/Runway 27
Location : Key West, FL.

LEASE

Between

COUNTY OF MONROE

and

THE UNITED STATES OF AMERICA

THIS LEASE, made and entered into this _____ day of _____, in the year 20____, by and between the County of Monroe, whose address is:

3491 South Roosevelt Boulevard
Key West, Florida 33040

hereinafter referred to as the Lessor and the United States of America, hereinafter referred to as the Government:

WITNESSETH: The parties hereto for the consideration hereinafter mentioned covenant and agree as follows:

1. PREMISES

The Lessor hereby leases to the Government the following described property, hereinafter referred to as the premises, viz:

**LEGAL DESCRIPTION – RUNWAY-END IDENTIFICATION LIGHTS (REIL) SYSTEM FACILITY/
RUNWAY 27**

From the point of start (POS), being the intersection of the threshold of Runway 27 and the centerline of Runway 09/27, proceed N 86°27'19"E along the extended centerline a distance of 40' to the point of beginning (POB). From the POB, proceed S 03°32'41"E, 125' to REIL Unit #1. From the POB, proceed N 03°32'41"W, 125' to REIL Unit #2. From the POB, proceed S 03°32'41"E, 360' to a point then N 86°27'19"E, 15' to power and control station, as depicted on FAA Drawing No. SO-D-100474-L01, dated 3/8/89, hereby made apart of this agreement for any and all purposes.

(a) Together with a right-of-way for ingress to and egress from the premises; a right-of-way for establishing and maintaining a pole line or pole lines for extending electric power and/or telecommunication lines to the premises; and a right-of-way for subsurface power, communication and/or water lines to the premises; all rights-of-way to be over the said lands and adjoining lands of the Lessor, and unless herein described otherwise, to be by routes reasonably determined to be the most convenient to the Government.

(b) And the right of grading, conditioning, and installing drainage facilities, and seeding the soil of the premises, and the removal of all obstructions from the premises which may constitute a hindrance to the establishment and maintenance of Government facilities.

(c) And the right to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the premises hereby leased, which alterations, fixtures, additions, structures or signs so placed in or upon, or attached to the said premises shall be and remain the property of the Government, and shall be removed upon the date of expiration or termination of this lease, or within ninety (90) days thereafter, by or on behalf of the Government, or its grantees, or purchasers of said alterations, fixtures, additions, structures, or signs. (10/96)

2. TERM

To have and to hold said premises with their appurtenances for the term beginning October 1, 2004, through September 30, 2005, subject to termination and renewal rights as may be hereinafter set forth. (10/96)

3. CONSIDERATION

The Government shall pay the Lessor no monetary consideration in the form of rental, it being mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation and maintenance of facilities upon the premises hereby leased. (10/96)

4. RENEWAL

This lease may, at the option of the Government, be renewed from year to year upon the terms and conditions herein specified. The Government's option shall be deemed exercised and the lease renewed each year for one (1) year unless the Government gives the Lessor thirty (30) days written notice that it will not exercise its option, before this lease or any renewal thereof expires; PROVIDED, that no renewal thereof shall extend the period of occupancy of the premises beyond September 30, 2025.

5. TERMINATION

The Government may terminate this lease, in whole or in part, at any time by giving at least thirty (30) days notice in writing to the Lessor. Said notice shall be sent by certified mail.

6. NON-RESTORATION

It is hereby agreed between the parties, that upon termination of its occupancy, the Government shall have no obligation to restore and/or rehabilitate, either wholly or partially, the property which is the subject matter of this lease. It is further agreed that the Government may abandon in place any or all of the structures and equipment installed in or located upon said property by the Government during its tenure. Such abandoned equipment shall become the property of the Lessor. Notice of abandonment will be conveyed by the Government to the Lessor in writing. (10/96)

7. INTERFERENCE WITH GOVERNMENT OPERATIONS

The Lessor agrees not to erect or allow to be erected any structure or obstruction of whatsoever kind or nature on the site or adjoining land within the airport boundaries that may interfere with the proper operation of the facilities installed by the Government under the terms of this Lease unless consent hereto shall first be secured from the Government in writing, which consent shall not be unreasonably withheld. (modified)

8. FUNDING RESPONSIBILITY FOR GOVERNMENT FACILITIES

The Lessor agrees that any relocation, replacement, or modification of any existing or future Government facilities covered by this Lease during its term or any renewal thereof made necessary by airport improvements or changes which in the Government's opinion interfere with the technical and/or operational characteristics of the Government facilities will be at the expense of the Lessor, except when such improvements or changes are made at the written request of the Government. In the event such relocations, replacements, or modifications are necessitated due to causes not attributable to either the Lessor or the Government, funding responsibility shall be determined by the Government. (10/96)

9. HAZARDOUS SUBSTANCE CONTAMINATION

The Government agrees to remediate, at its sole cost, all hazardous substance contamination on the leased premises that is found to have occurred as a direct result of the installation, operation, and/or maintenance of the Government's facilities. The Lessor agrees to remediate or have remediated, with no cost to the Government, any and all other hazardous substance contamination found on the leased premises. The Lessor also agrees to save and hold the Government harmless for any and all costs, liabilities and/or claims by third parties that arise out of hazardous contamination found on the leased premises not directly attributable to the installation, operation and/or maintenance of the Government's facilities. (10/96)

10. QUIET ENJOYMENT

The Lessor warrant that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Government's use and enjoyment of said premises against third party claims. (10/96)

11. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit. (10/96)

12. COVENANTS AGAINST CONTINGENT FEES

The Lessor warrant that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee. (10/96)

13. ANTI-KICKBACK

The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor. (10/96)

14. PROTEST AND DISPUTES

(a) All contract disputes arising under or related to this contract shall be resolved through the Federal Aviation Administration (FAA) dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and shall be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and shall apply only to final agency decisions. A contractor may seek review of a final FAA decision only after its administrative remedies have been exhausted.

(b) The filing of a contract dispute with the ODRA may be accomplished by mail, overnight delivery, hand delivery, or by facsimile. A contract dispute is considered to be filed on the date it is received by the ODRA.

(c) Contract disputes are to be in writing and shall contain:

(1) The contractor's name, address, telephone and fax numbers and the name, address, telephone and fax numbers of the contractor's legal representative(s) (if any) for the contract dispute;

(2) The contract number and the name of the Contracting Officer;

(3) A detailed chronological statement of the facts and of the legal grounds for the contractor's positions regarding each element or count of the contract dispute (i.e., broken down by individual claim item), citing to relevant contract provisions and documents and attaching copies of those provisions and documents;

(4) All information establishing that the contract dispute was timely filed;

(5) A request for a specific remedy, and if a monetary remedy is requested, a sum certain must be specified and pertinent cost information and documentation (e.g., invoices and cancelled checks) attached, broken down by individual claim item and summarized; and

(6) The signature of a duly authorized representative of the initiating party.

(d) Contract disputes shall be filed at the following address:

(1) Office of Dispute Resolution for Acquisition, AGC-70,
Federal Aviation Administration,
800 Independence Ave, S.W., Room 323,
Washington, DC 20591,

Telephone: (202) 267-3290,
Facsimile: (202) 267-3720; or

(2) other address as specified in 14 CFR Part 17.

(e) A contract dispute against the FAA shall be filed with the ODRA within two (2) years of the accrual of the contract claim involved. A contract dispute by the FAA against a contractor (excluding contract disputes alleging warranty issues, fraud or latent defects) likewise shall be filed within two (2) years after the accrual of the contract claim. If an underlying contract entered into prior to the effective date of this part provides for time limitations for filing of contract disputes with the ODRA which differ from the aforesaid two (2) year period, the limitation periods in the contract shall control over the limitation period of this section. In no event will either party be permitted to file with the ODRA a contract dispute seeking an equitable adjustment or other damages after the contractor has accepted final contract payment, with the exception of FAA claims related to warranty issues, gross mistakes amounting to fraud or latent defects. FAA claims against the contractor based on warranty issues must be filed within the time specified under applicable contract warranty provisions. Any FAA claims against the contractor based on gross mistakes amounting to fraud or latent defects shall be filed with the ODRA within two (2) years of the date on which the FAA knew or should have known of the presence of the fraud or latent defect.

(f) A party shall serve a copy of the contract dispute upon the other party, by means reasonably calculated to be received on the same day as the filing is to be received by the ODRA.

(g) After filing the contract dispute, the contractor should seek informal resolution with the Contracting Officer.

(h) The FAA requires continued performance with respect to contract disputes arising under this contract, in accordance with the provisions of the contract, pending a final FAA decision.

(i) The FAA will pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the contract dispute, or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on contract disputes shall be paid at the rate fixed by the Secretary of the Treasury that is applicable on the date the Contracting Officer receives the contract dispute and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary until payment is made.

(j) Additional information and guidance about the ODRA dispute resolution process for contract disputes can be found on the ODRA Website at <http://www.faa.gov>.

15. SPECIAL STIPULATIONS

This lease shall replace Lease No. DTFA06-89-L-10829, which expires September 30, 2004.

16. LESSOR'S SUCCESSORS

The terms and provisions of this lease and the conditions herein bind the Lessor and the Lessor's administrators, successors and assigns. (10/96)

17. NOTICES

All notices/correspondence shall be in writing, and shall be addressed as follows (or to such other address as either party may designate from time to time by notice or correspondence to the other) (10/96):

TO LESSOR: County of Monroe
3491 South Roosevelt Boulevard
Key West, Florida 33040

TO GOVERNMENT: Federal Aviation Administration
Southern Region, ASO-56
P. O. Box 20636
Atlanta, Georgia 30320

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date above written.

COUNTY OF MONROE

BY: _____ Date: ____/____/____
(signature)

TITLE: _____

UNITED STATES OF AMERICA

BY: _____ Date: ____/____/____
Ronnie Johnson

TITLE: Sr. Real Estate Contracting Officer

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY [Signature]
ATTORNEY'S OFFICE
DATE 6/28/00